

Jay-Lor Drains & Piping Maintenance, Inc. and District Council No. 12 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, on behalf of Plumbers Locals 86, 209, and 299. Case 2-CA-23697

January 28, 1993

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

On September 28, 1990, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Jay-Lor Drains & Piping Maintenance, Inc., to make whole its unit employees for its failure to make contractually required monetary payments to various benefit funds and to Locals 86, 209, and 299 for administrative costs. By judgment dated October 21, 1991, the United States Court of Appeals for the Second Circuit enforced the Board's Order.

A controversy having arisen over the amount of fund contributions and administrative expenses owed, on June 26, 1992, the Regional Director for Region 2 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated July 31, 1992, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed no later than the close of business of August 10, 1992, summary judgment would be sought. The Respondent filed no answer.

On December 29, 1992, the General Counsel filed with the Board a Motion for Summary Judgment and issuance of Decision and Order and petition in support, with exhibits attached. On January 5, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

¹ 300 NLRB No. 46.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amount of fund contributions and administrative expenses due is as stated in the compliance specification and we will order payment of that amount by the Respondent.

ORDER

The National Labor Relations Board orders that the Respondent, Jay-Lor Drains & Piping Maintenance, Inc., Yonkers, New York, its officers, agents, successors, and assigns, shall pay the amounts listed below, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Welfare Fund	\$36,655.00
Pension Fund	32,356.00
Vacation Fund	30,776.00
Education Fund	6,661.00
Annuity Fund	17,796.00
Administration	
Costs	3,299.00
Attorney's Fees	1,025.00